



H.C.P.No.793 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

H.C.P.No.793 of 2025

D.Harikrishnan

.. Petitioner

Vs.

1.The Deputy Commissioner of Police,
Madhavaram,
Chennai – 600 110.

2.The State Rep by,
Inspector of Police,
M-1, Madhavaram Police Station,
Madhavaram, Chennai – 600 110.

3.Nimmi Ravi

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, for a direction to the respondents 1 and 2 to produce the (minor) HN.Pranav, aged 8 years, S/o.D.Harikrishnan before this Court from the custody of 3rd respondent and thereby handover to the petitioner.



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For Petitioner : Ms.P.Rakshana Velayudhan
For RR 1 & 2 : Mr.E.Raj Thilak
Additional Public Prosecutor
For R3 : Mr.P.Krishnan

ORDER

(Order of the Court was made by *V.LAKSHMINARAYANAN, J.*)

The petitioner seeks for the following relief:

“to issue a Writ of Habeas Corpus, for a direction to the respondents 1 and 2 to produce the (minor) HN.Pranav, aged 8 years, S/o.D.Harikrishnan before this Court from the custody of 3rd respondent and thereby handover to the petitioner.”

2. There is no dispute in the following facts.

3. The petitioner married one G.Nandhini on 21.08.2015. From the wedlock, a child was born on 06.08.2016. The petitioner's father-in-law passed away on 21.10.2020. Taking note of this fact that the 3rd respondent was grieving, the petitioner's wife went to console her mother at Arakonam.



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4.Subsequently, it was discovered, the affliction of cancer with which the petitioner's wife had a past history, resurfaced in 2022. The petitioner's son accompanied his mother, while she was taking treatment at Kolathur, a sub urban in Chennai. At the relevant time, the child was studying at Purasawalkam. Finding it difficult to travel between Kolathur and Purasawalkam, the child was admitted in an institution in Perambur, closer to the residence of the 3rd respondent, where G.Nandhini was recuperating.

5.On 14.02.2025, the petitioner came to know that his wife, who had gone over to Pollachi for treatment, had become extremely sick. He rushed to Pollachi and found his wife in the aforesaid condition. Soon thereafter, Tmt.G.Nandhini passed away on 19.02.2025.

6.The child, who was in the custody of his parents, was taken over by the 3rd respondent on the death of G.Nandhini. The petitioner's attempts to retrieve his child from the custody of the 3rd respondent was of no avail. Hence, he has come forward with the present petition.



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7.This Court, taking into consideration that the petitioner is the father and the 3rd respondent is the maternal grand mother of the detenue, passed the following order on 30.04.2025:

“2.The petitioner, being the father of 8 years old minor boy, would be legally entitled for guardianship and custodial rights since his wife had expired and the second respondent herein being the grandmother may also be entitled for visitation rights. However, we have taken into account that the minor boy has been staying with the grandmother for considerable time and therefore, the decision as to whether the permanent custody can be restored to the petitioner or not would be decided at a later stage.

*3.In the meantime, the petitioner/father shall be entitled for interim custody of his minor son on every **Saturday and Sunday**. In order to record the progress of the boy's relationship and comfort of his stay in his father's house, call this matter on 10.06.2025.*

4.For the purpose of complying with the aforesaid direction, the second respondent shall hand over the custody of the minor boy to the petitioner/father. The petitioner is also at liberty to visit the second respondent's house for taking interim custody of the minor boy.”



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8. When the matter was called today as per the aforesaid order dated 30.04.2025, it came to light that the 3rd respondent had only partly complied with this order. Citing the reluctance of the child, the 3rd respondent has not complied with the order passed aforesaid.

9. We heard Ms.P.Rakshana Velayudhan for the petitioner, Mr.E.Raj Thilak, Additional Public Prosecutor for the respondents 1 & 2 and Mr.P.Krishnan for the 3rd respondent.

10. The counsels appearing for the petitioner and the 3rd respondent requested us to ascertain the views of the petitioner, 3rd respondent and the child. We kept the matter back and heard the parties in our Chamber. Our interaction with the parties, revealed the following:

- (i) The child was comfortable in the presence of the father;
- (ii) The father expressed a desire to bring up the child as he had no one else to call his immediate family;
- (iii) The petitioner is residing in a joint family, where other womenfolk and a young nephew, who is junior in age to the child concerned in this Habeas Corpus Petition are



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available;

(iv)The 3rd respondent was expressing her unhappiness over the manner in which the petitioner had treated her deceased daughter, but did not have anything adverse to say about the habits or upbringing of the petitioner and

(v)The 3rd respondent pleaded that as her only daughter has passed away, she may be permitted to bring up the minor child.

11.We have carefully considered the submissions on all the sides and have also kept in mind the interaction between us and the parties to this Habeas Corpus petition.

12.In a matter relating to a child, it is the best interest of the child which is paramount. While considering the best interests of child, the over all circumstances must also be taken into consideration. The child had been in the care and custody of his parents from his birth till February, 2025. It was after the death of his mother, that the 3rd respondent, the maternal grand mother has decided to retain the child



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without permitting the father to have free access to the child. The child had been admitted to a School in Purasawalkam by his parents and had shifted to an other institution for convenience of his mother to get treatment at a Hospital nearby. The father being the natural guardian has a better right than the maternal grandmother. In case, the child grows up in the custody of the 3rd respondent, there is every possibility that the father / petitioner would not be anywhere near the child.

13.The 3rd respondent wants the child to be brought up in exclusion of his father. Such an exclusion would result in parental alienation syndrome. If that eventuality occurs, it will affect the child adversely.

14.On the contrary, we find that the father has a lot of affection for the child and the child also has an age appropriate company in his father's residence. The family of the petitioner is a joint family and therefore, there are other members in the family who can take care of the child in the absence of the father, if he is away on business.



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15.We have also taken note of The Hindu Minority and Guardianship Act, 1956, under which the father is statutorily granted custody of a minor child.

16.In the light of the above, the Habeas Corpus Petition succeeds. The petitioner shall have the custody of his minor son HN.Pranav. The 3rd respondent, being the maternal grandmother, will be entitled to visit the child in the residence of the petitioner, whenever she so desires. The petitioner and his family members shall not obstruct the 3rd respondent's visit or interaction with the child.

17.Accordingly, this Habeas Corpus Petition is ordered in the above terms. No costs.

(M.S.R., J) (V.L.N., J)

10.06.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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